

INTERVIEW SUMMARY

A telephone interview was conducted with the Examiner on March 14, 2007. In the course of this interview, the Examiner requested a nexus between the claimed invention and the subject matter of the various declarations related to the apparatus which was delivered to Mr. Murch. There was further discussion as to the degree of control over the apparatus delivered to Mr. Murch for the purposes of establishing experimental use.

REMARKS

This response follows the final Office Action and a Request for Continued Examination is filed herewith.

As noted above in the interview summary, the Examiner has taken issue with the degree of control which has been exhibited over the lateral thruster which was delivered to Mr. Murch prior to the year of filing of the original provisional patent application which the present application claims priority upon. Of course, one of the factors for establishing experimental use is the degree of control, and the case law discussing experimental use is described in detail in the previous response by the applicant's Attorney.

Another declaration by the inventor, Mr. McDugle, is attached herewith disclosing the various fact to the best of his recollection following the installation of the first rendition of the lateral thruster to Mr. Murch's boat.

Mr. McDugle's statements in paragraph 3 establish that there is a nexus between the apparatus attached to Mr. Murch's boat and the claims of the present patent application.

With regard to the degree of control, Mr. McDugle, as stated in paragraph 4, recalls attempting to contact Mr. Murch approximately five to seven times in the following months after the installation of the first rendition of the lateral thruster. He specifically recalls making contact with Mr. Murch three specific times, and as stated in paragraph 5, conducted post-installation improvements upon the first rendition of the lateral thruster. Mr. McDugle noted that he vividly recalls his attempts to contact Mr. Murch because due to the various improvements made to the later renditions of the

lateral thruster, Mr. McDugle wanted to replace the original version on Mr. Murch's boat entirely.

Therefore, it is believed that the nature of this exercise of control by way of numerous communications, as well as follow-up improvements and attempts to entirely replace the first rendition, indicates the element of control over the experimental use lateral thruster. The previous Response discusses in great detail the numerous factors of recent case law related to experimental use, and given the additional information in the latest Declaration, in conjunction with the facts set out in the last Response (as well as previous Responses), it is strongly believed that the overall nature of this first prototype was that of experimental use.

It is respectfully submitted that the claims of the application should be made allowable. However, if there are any matters which need clarification, or if there are any of these matters which the Examiner feels could be expedited by a telephone conference with the undersigned, such would be welcome. The Applicant's attorney can normally be reached at the telephone number set forth below.

Signed at Bellingham, County of Whatcom, State of Washington this March 20, 2007.

Respectfully submitted,
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